

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

STEPHEN and PAMELA BYRD

PLAINTIFFS

V.

CIVIL ACTION NO.1:07CV578 LTS-RHW

ALLSTATE INSURANCE COMPANY

DEFENDANT

ORDER ALLOWING STIPULATION CONCERNING AMOUNT IN CONTROVERSY

This case was removed from the County Court of Harrison County, Mississippi, on grounds of diversity of citizenship. The state court complaint alleges a wrongful refusal of property insurance benefits for damage that occurred during Hurricane Katrina. Plaintiffs have filed a motion [8] to remand.

The sole issue that governs the propriety of removal is the amount actually in controversy. The state court complaint is ambiguous. The complaint seeks damages above than the jurisdictional minimum, but the plaintiffs' motion indicates that the plaintiffs are willing to reduce their claim for damages to \$74,500, an amount less than the jurisdictional minimum. If the plaintiffs in fact seek no damages beyond the \$74,500 alleged in their complaint, this action must be remanded. If the plaintiffs intend to seek damages above the jurisdictional minimum, as the *ad damnum* clause of their complaint indicates, the Court must retain jurisdiction of this case.

Accordingly, I will allow the plaintiffs ten days within which they may file a unilateral stipulation that they will not seek damages from the defendant in an amount greater than \$74,500. Upon the filing of this stipulation, this action will be remanded to the County Court of Harrison County, Mississippi. If the plaintiffs do not file this stipulation, the motion to remand will be denied.

SO ORDERED this 27th day of June, 2007.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE